

## **II. GROUP ELECTION**

In order to be fully compliant with the Restriction Requirement, Applicants elect the invention of Group I, claims 1-2, 6, 12-13, 15-16, and 18-19, drawn to a DNA molecule encoding a fragment of the wild type TAF<sub>II</sub> 105 polypeptide of SEQ ID NO:2 or a fragment of the wild type polynucleotide of SEQ ID NO:1, an expression vector comprising said DNA molecule, and an antisense of SEQ ID NO:1. This election is made with traverse.

## **III. SPECIES ELECTION**

In addition, Applicants elect the species of "inflammation". This species is readable on claim 19.

## **REMARKS**

The Restriction Requirement further alleges that the wild-type TAF<sub>II</sub> 105 polypeptide is known in the art (e.g., Dikstein et al, 1996, Cell 87:137-146, and U.S. Patent 5,710,025) and thus the technical feature of Group I does not make a contribution over the prior art. However, Applicants respectfully submit that the subject matter of Group I is not directed to a polypeptide but is rather directed to polynucleotides. Polynucleotides encoding TAF<sub>II</sub> 105 are not taught or suggested by either reference. The Examiner is respectfully reminded that even if the above-cited references teach a TAF<sub>II</sub> 105 polypeptide, a claim to a nucleic acid should not be considered obvious over a prior art disclosure of the corresponding protein or of a method of obtaining the nucleic acid. *In re Bell*, 991 F.2d 781 (Fed. Cir. 1993) and *In re Deuel*, 51 F.3d 1552 (Fed. Cir. 1995).

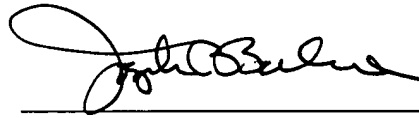
Applicant : Dikstein et al.  
Serial No. : 09/763,909  
Filed : June 8, 2001  
Page : 3

Attorney's Docket No.: 13005-002001 / 131519.1 JP/bv

This response is being filed within one (1) month of the mailing date of the Restriction Requirement and thus the response is being timely filed. Accordingly, no fee is believed to be due. However, should any required fee be due, please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 12/31/02



Joseph R. Baker, Jr.  
Reg. No. 40,900

Fish & Richardson P.C.  
4350 La Jolla Village Drive, Suite 500  
San Diego, California 92122  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099